



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/534,649

01/06/2006

Wilhelmus Henricus Maria Van Cuijk

3135-051381

7097

28289 7590 06/09/2009

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

EXAMINER

WOMACK, DOMINIQUE A

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

06/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/534,649	Applicant(s) VAN CUIJK, WILHELMUS HENRICUS MARIA	
	Examiner DOMINIQUE WOMACK	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Claims 16-26 are pending. Claims 27-30 are withdrawn from consideration. The restriction requirement detailed in Office Action dated November 26, 2008 is made final. Applicant's amendments filed on 2/26/2009 have been acknowledged.

Rejections

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Any rejections and/or objections made in the previous office action, dated November, 26, 2008 are hereby withdrawn.

Claim Rejections - 35 USC § 112

4. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 24 recites the limitation "the material layer" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 1794

6. In addition, it is unclear what constitutes the material layer that is shielding the compartments from the environment. Both the container material and the cover material shield the compartments from the environment.

Claim Rejections - 35 USC § 102

7. **Claims 16-21 and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Goltsos [US Pat No. 4,013,798].**

8. **Regarding claims 16, 18 and 26,** Goltsos discloses a container comprising compartments shielded from the environment wherein the compartments are separated from each other such that a medium cannot flow there between (Fig. 7; col. 5, lines 21-36). The compartments containing water laden food may be individually vented to the atmosphere by forming a portion of the side wall and adjacent rim defining each of those compartments to include a separate notch (col. 5, lines 28-33). The entire covered compartment including the vent notch (Fig.7, #32') is considered to be an openable passage opening. Therefore, each compartment shown in Figure 7 has differing passage openings. The weakened seals around the vent notch in each compartment allow the individual compartments to vent separately from one another once the vapor pressure build up excessively within the individual compartment (col.4, lines 24-32).

9. **Regarding claim 17,** Goltsos discloses that each compartment is shielded by a plastic film (Fig. 7, #31; col. 5, lines 25-28).

Art Unit: 1794

10. **Regarding claim 19**, the compartments of Goltosos would only produce water vapor after a certain temperature had been exceeded within the compartment. It is considered that an increase of vapor pressure in the compartment which opens the vent notch occurs after a determined temperature, such as the temperature at which water vapor is produced, is exceeded.

11. **Regarding claim 20**, the combination of the cover and the opening can be considered to be a pressure valve.

12. **Regarding claim 21**, Goltosos discloses in Figure 7 compartments where the total passage surface of the one compartment is smaller than another compartment. The entire compartment is interpreted as a passage opening.

13. **Regarding claim 24**, the seal is apart of the material layer and therefore the passage opening is considered to be arranged in the material layer which shields the compartment from the environment. It is noted that "opening" is considered to be the point at which the material becomes separated from the container.

14. **Regarding claim 25**, the vent notch is formed in the container (col. 5, lines 28-33).

Claim Rejections - 35 USC § 103

15. **Claims 19 (in the alternative) and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goltosos [US Pat No. 4,013,798] in view of Beizermann [US Pat No. 5,587,192].**

16. **Regarding claim 19**, Goltosos fails to disclose the use of passage openings that are blocked prior to use and open under the influence of a determined temperature being exceeded.

Art Unit: 1794

17. **Regarding claims 22 and 23**, Goltsos fails to disclose passage openings that a blocked by means of a cover element fixed with an adhesive layer, wherein the adhesive later softens at a determined temperature.

18. Beizermann discloses a gas tight container of the tray variety intended to undergo heat treatment. Beizermann discloses a container which comprises a body with a lip, sealed hermetically by a film and having a hole provided in the lip, characterized by a layer of a substance having a melting point between 60° C to 150° C, which is interposed between the film and the part of the lip around the hole (col. 2, lines 19-24). The film seals the hole and prevents gaseous communication between the hole and the recessed portion of the tray under temperature conditions less than the melting point of the adhesive layer between the film and tray such that when said container and product are heat processed and said film flexes away from said tray, said hot melt adhesive layer softens and releases said second bond between said upper surface of the lip and said film to expose said hole to gaseous communication between the hole and the recessed portion of the tray, thus enabling venting of the container (col. 4, lines 14-24). Thus, during the cooking phase, air, steam and gases are able to escape through the opening allowing the inside of the tray to communicate with the outside (col. 3, lines 4-6).

19. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the temperature responsive sealing of Beizermann to modify the sealing arrangement of Goltsos in order to vent the food package when it reaches a certain temperature. One of ordinary skill in the art would be motivated to vent the food package when it reaches a certain temperature because Beizermann discloses that this type of sealing arrangement enables air, steam and gases

Art Unit: 1794

escape through the opening in the tray once the melting point of the hot melt adhesive has been reached.

Response to Arguments

20. Applicant's arguments, see pg. 7-8, filed February 26, 2009, with respect to the rejection(s) of claim(s) 16-21 and 25-26 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a different interpretation of Goltsos [US Pat No. 4,013,798]. Goltsos is not only directed toward a container wherein the compartments are interconnected. Goltsos discloses a container wherein each compartment is individually vented to the atmosphere without the compartments being connected.

21. Applicant's arguments with respect to claims 19 and 22-23 (rejection under 103(a) Goltsos in view of Clarke) have been considered but are moot in view of the new ground(s) of rejection.

22. Applicant's arguments with respect to claim 24 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 1794

Conclusion

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOMINIQUE WOMACK whose telephone number is (571) 270-7366. The examiner can normally be reached on Monday-Thursday, 9:30am-6:00pm.

24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on (571) 272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. W./

Examiner, Art Unit 1794

/JENNIFER MCNEIL/

Supervisory Patent Examiner, Art Unit 1794